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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 919/2005

APPELLANTS Puranlal Sahu and another
Claimants

Versus

RESPONDENTS Yashvant Kumar Verma and others
Non-applicants

Judgment post for 26-6-2007

Sd/-
DHIRENDRA MISHRA
Judge
25-6-2007

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HIGH COURT OF CHHATTISGARH AT BILASPUR
M.A. No. 919/2005

APPELLANTS Claimants
1. Puranlal Sahu, S/o. Budheram Sahu, aged about 40 years
2. Rampyari Bai, W/o. Puran Lal Sahu, aged about 38 years, both are R/o. village – Mohadi, P.S.- Dharsiva, Distt. Raipur (C.G.)

Versus

RESPONDENTS Non-applicants
1. Yashvant Kumar Verma, S/o. Punaram Verma, village – Mohdi, P.S. Dharsiva, Distt. Raipur (C.G.)
2. Smt. Draupadi Bai Verma, W/o. A.C. Verma, village- Mohdi, P.S. Dharsiva, Distt. – Raipur (C.G.
3. The Oriental Insurance Company Limited, through Divisional Manager, the Oriental Insurance Co. Ltd. Kutchhari Chowk, Jail Road, Raipur (C.G.)

Shri S.C. Verma, Adv. for the appellants.
None appears for the respondents.

J U D G M E N T

Dhirendra Mishra, J.

The claimants have preferred this appeal for enhancement of award against the award dated 29-4-2005 passed by 11th Additional Motor Accident Claims Tribunal, FTC, Raipur in Claim Case No. 62/2004 whereby a sum of Rs. 57,000/- has been awarded as compensation to the claimants for the death of their son Rameshwar aged 7 years.

The claimants moved an application for compensation before the Tribunal with an averment that on 29-2-2004 at about 7.10 a.m., his son Rameshwar was playing near grocery shop, at that time offending vehicle Mini Bus bearing registration No. CG 04 ZA 0380 was being pushed from Engine side backward for the purpose of starting it, however the deceased came under the wheels of the bus and sustained grievous injuries and died on the same day. Compensation of Rs. 2,00,000/- towards loss of dependency, Rs. 10,000/-

towards funeral expenses, Rs. 10,000/- towards loss of love and affection and Rs. 10,000/- towards loss of estate was claimed and accordingly total Rs. 2,30,000/- was claimed.

The respondent No. 3-insurer of the vehicle denied the averments and contended that the compensation claimed is highly inflated. The other respondents also denied the averments of the claim petition and took the defence that there was no negligence on the part of the driver of the vehicle and in fact the deceased dashed against the offending vehicle because of his own negligence.

The Tribunal after appraisal of the evidence, held that the accident occurred because of negligence of the driver of the offending vehicle and accordingly allowed the claim petition and awarded Rs. 57,000/- towards loss of dependency, pains and sufferings and funeral expenses.

The only ground urged by the appellant for enhancement of the award is that the amount awarded is highly inadequate. The Tribunal ought to have applied multiplier method for assessment of compensation and considering that the age of the deceased was less than 15 years, multiplier of 15 ought to have been applied after taking national income of Rs. 15,000/- per year. Reliance is placed on the judgment in the matter of ***Manju Devi and another –v- Musafir Paswan and another*** reported in ***2005(1) T.A.C. 609 (S.C.).***

I have heard learned counsel for the appellants. I have perused the impugned award and material available on record.

The argument of the learned counsel for the appellants which is based on the judgment in the matter of **Manju Devi** (supra) appears to be reasonable. The appellants-claimants who have lost their 7 years young boy have been awarded a compensation of Rs. 57,000/- which is highly inadequate and the Tribunal ought to have applied multiplier method for compensation payable to the claimants. The application is

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under Section 163-A of the Motor Vehicles Act, 1988 (for short, hereinafter referred to as the Act) and as per Second Schedule under the Act, in the case of death of victim upto 15 years of age, the multiplier to be applied is 15 and notional income of Rs. 15,000/- per month is to be taken for computing the compensation of the deceased who had no income prior to the accident. Thus, the compensation payable to the appellants-claimants as set out in the Second Schedule of the Act, taking notional income of the deceased at Rs. 15,000/- per annum and making deduction of 1/3rd from the above being the expenditure that he would have incurred towards maintaining himself had he been alive, thus taking dependency at the rate of Rs. 10,000/- per annum and applying multiplier of 15, a sum of Rs. 1,50,000/- towards loss of dependency ought to have been awarded. The Tribunal has rightly awarded a sum of Rs. 5,000/- for pains and sufferings and Rs. 2,000/- towards funeral expenses. Thus total sum of Rs. 1,57,000/- ought to have been awarded to the claimants.

In the result, the appeal is allowed and the amount of compensation of Rs. 57,000/- awarded by the Tribunal is enhanced to Rs. 1,57,000/-. Accordingly, an additional sum of Rs. 1,00,000/- is awarded to the appellants-claimants with interest as awarded.

Sd/-
DHIRENDRA MISHRA
Judge
26-6-2007

Pathak/-